

## Forest Service, USDA

## § 290.1

the environment and programs which foster maintenance and improvement of environmental quality.

(3) That a use charge, royalty charge, or payment in kind which is reasonably related to the commercial value has been established.

(4) That the applicant is well qualified to further the goals and purposes of the *Woodsy Owl* campaign.

(5) That, when an exclusive license is requested, no other qualified applicant can be found who will provide comparable campaign support under a non-exclusive license.

(6) That such other conditions as the Chief may deem necessary in each case have been established.

(b) *Requirements for exclusive licenses.* Exclusive licenses when granted, shall conform to the following:

(1) A definite expiration date shall be specified based on the minimum time determined by the Chief to be needed by the licensee to introduce or popularize the item licensed and to recover the costs and expenses incurred in so doing.

(2) The Chief shall retain the independent right to use *Woodsy Owl* in any concurrent, noncommercial program, and to allow for the manufacture and sale of *Woodsy Owl* merchandise which, in his judgment, would not be in conflict with the licensed item.

(3) The licensee shall be required to have the licensed item available for sale, and promotion within a specified period, or show cause why this could not be done.

(4) The licensee shall be required to invest a specified minimum amount of money in the development, production, and promotion of the licensed item, as determined by the Chief to be necessary to insure that the licensee's use of *Woodsy Owl* will result in a substantial contribution to public information concerning pollution abatement and environmental enhancement.

(5) The Chief shall retain the right to revoke any license for failure of the licensee to comply with all the terms and conditions of the license.

(6) The licensee shall be required to submit periodic progress reports to apprise the Forest Service of his activities and progress in achieving stated objectives.

(7) The license shall not be subject to transfer or assignment, except as approved in writing by the Chief.

(8) The licensee shall not be authorized to grant sublicenses in connection with the manufacture and sale of the item, except as approved in writing by the Chief.

[37 FR 5700, Mar. 18, 1972, as amended at 40 FR 12641, Mar. 20, 1975]

### § 272.5 [Reserved]

### § 272.6 Power to revoke.

It is the intention of these regulations that the Chief, in exercising the authorities delegated hereunder, will at all times consider the primary purpose of carrying on a public service campaign to promote wise use of the environment and programs which foster maintenance and improvement of environmental quality. All authorities and licenses granted under these regulations shall be subject to abrogation by the Chief at any time he finds that the use involved is injurious to the purpose of the *Woodsy Owl* campaign, is offensive to decency or good taste, or for similar reasons, in addition to any other limitations and terms contained in the licenses and other authorities.

[40 FR 12641, Mar. 20, 1975]

## PART 290—CAVE RESOURCES MANAGEMENT

### Sec.

290.1 Purpose and scope.

290.2 Definitions.

290.3 Nomination, evaluation, and designation of significant caves.

290.4 Confidentiality of cave location information.

290.5 Collection of information.

AUTHORITY: 16 U.S.C. 4301-4309; 102 Stat. 4546.

SOURCE: 59 FR 31152, June 17, 1994, unless otherwise noted.

### § 290.1 Purpose and scope.

The rules of this part implement the requirements of the Federal Cave Resources Protection Act (16 U.S.C. 4301-4309), hereafter referred to as the "Act". The rules apply to cave management on National Forest System lands. These rules, in conjunction with

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rules in part 261 of this chapter, provide the basis for identifying and managing significant caves on National Forest System lands in accordance with the Act. National Forest System lands will be managed in a manner which, to the extent practical, protects and maintains significant cave resources in accordance with the policies outlined in the Forest Service Directive System and the management direction contained in the individual forest plans.

### § 290.2 Definitions.

For the purposes of this part, the terms listed in this section have the following meaning:

*Authorized officer* means the Forest Service employee delegated the authority to perform the duties described in this part.

*Cave* means any naturally occurring void, cavity, recess, or system of interconnected passages beneath the surface of the earth or within a cliff or ledge and which is large enough to permit a person to enter, whether the entrance is excavated or naturally formed. Such term shall include any natural pit, sinkhole, or other opening which is an extension of a cave entrance or which is an integral part of the cave.

*Cave resources* mean any materials or substances occurring in caves including, but not limited to, biotic, cultural, mineralogic, paleontologic, geologic, and hydrologic resources.

*National Forest System lands* means all national forest lands reserved or withdrawn from the public domain, acquired through purchase, exchange, or donation, national grasslands and land utilization projects, and other lands, waters, or interests administered by the Forest Service.

*Secretary* means the Secretary of Agriculture.

*Significant cave* means a cave located on National Forest System lands that has been determined to meet the criteria in § 290.3 (c) or (d) and has been designated in accordance with § 290.3(e).

### § 290.3 Nomination, evaluation, and designation of significant caves.

(a) *Nominations for initial and subsequent listings.* The authorized officer will give governmental agencies and

the public, including those who utilize caves for scientific, educational, or recreational purposes, the opportunity to nominate caves. The authorized officer shall give public notice, including a notice published in the FEDERAL REGISTER, calling for nominations for the initial listing and setting forth the procedures for preparing and submitting the nominations. Nominations for subsequent listings will be accepted from governmental agencies and the public by the Forest Supervisor where the cave is located as new cave discoveries are made. Caves nominated but not approved for designation may be renominated as additional documentation or new information becomes available.

(b) *Evaluation for initial and subsequent listings.* The evaluation of the nominations for significant caves will be carried out in consultation with individuals and organizations interested in the management and use of caves and cave resources, within the limits imposed by the confidentiality provisions of § 290.4. Nominations shall be evaluated using the criteria in § 290.3 (c) and (d).

(c) *Criteria for significant caves.* A significant cave on National Forest System lands shall possess one or more of the following features, characteristics, or values.

(1) *Biota.* The cave provides seasonal or yearlong habitat for organisms or animals, or contains species or subspecies of flora or fauna native to caves, or are sensitive to disturbance, or are found on State or Federal sensitive, threatened, or endangered species lists.

(2) *Cultural.* The cave contains historic properties or archeological resources (as defined in Parts 800.2 and 296.3 of this chapter respectively, or in 16 U.S.C. 470, *et seq.*), or other features included in or eligible for inclusion on the National Register of Historic Places because of their research importance for history or prehistory, historical associations, or other historical or traditional significance.

(3) *Geologic/Mineralogic/Paleontologic.* The cave possesses one or more of the following features:

(i) Geologic or mineralogic features that are fragile, represent formation

processes that are of scientific interest, or that are otherwise useful for study.

(ii) Deposits of sediments or features useful for evaluating past events.

(iii) Paleontologic resources with potential to contribute useful educational or scientific information.

(4) *Hydrologic*. The cave is a part of a hydrologic system or contains water which is important to humans, biota, or development of cave resources.

(5) *Recreational*. The cave provides or could provide recreational opportunities or scenic values.

(6) *Educational or scientific*. The cave offers opportunities for educational or scientific use; or, the cave is virtually in a pristine state, lacking evidence of contemporary human disturbance or impact; or, the length, volume, total depth, pit depth, height, or similar measurements are notable.

(d) *Specially designated areas*. All caves located within special management areas, such as Special Geologic Areas, Research Natural Areas, or National Monuments, that are designated wholly or in part due to the cave resources found therein are determined to be significant.

(e) *Designation and documentation*. If the authorized officer determines that a cave nominated and evaluated under paragraphs (a) and (b) of this section meets one or more of the criteria in paragraph (c) of this section, the authorized officer shall designate the cave as significant. The authorized officer will notify the nominating party of the results of the evaluation and designation. Each forest will retain appropriate documentation for all significant caves located within its administrative boundaries. At a minimum, this documentation shall include a statement of finding signed and dated by the authorized officer and the information used to make the determination. This documentation will be retained as a permanent record in accordance with the confidentiality provision in § 290.4.

(f) *Undiscovered passages*. If a cave is determined to be significant, its entire extent on federal land, including passages not mapped or discovered at the time of the determination, is deemed significant. This includes caves that extend from lands managed by any other Federal agency into National

Forest System lands, as well as caves initially believed to be separate for which interconnecting passages are discovered after significance is determined.

(g) *Decision final*. The decision to designate or not designate a cave as significant is made at the sole discretion of the authorized officer based upon the criteria in paragraphs (c) and (d) of this section and is not subject to further administrative review of appeal under Parts 217 or 251.82 of this chapter.

#### § 290.4 Confidentiality of cave location information.

(a) *Information disclosure*. No Forest Service employee shall disclose any information that could be used to determine the location of a significant cave or a cave nominated for designation, unless the authorized officer determines that disclosure will further the purposes of the Act and will not create a substantial risk of harm, theft, or destruction to cave resources.

(b) *Requesting confidential information*. Notwithstanding paragraph (a) of this section, the authorized officer may make confidential cave information available to Federal or State governmental agencies, bona fide educational or research institutes, or individuals or organizations assisting the land management agencies with cave management activities. To request confidential cave information, such entities shall make a written request to the authorized officer which includes the following:

(1) Name, address, and telephone number of the individual responsible for the security of the information received;

(2) A legal description of the area for which the information is sought;

(3) A statement of the purpose for which the information is sought; and,

(4) Written assurances that the requesting party will maintain the confidentiality of the information and protect the cave and its resources.

(c) *Decision final*. The decision to permit or deny access to confidential cave information is made at the sole discretion of the authorized officer and is not subject to further administrative review or appeal under 5 U.S.C. 552 or parts 217 or 251.82 of this chapter.

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### § 290.5 Collection of information.

The collection of information contained in this rule represents new information requirements as defined in 5 CFR part 1320, Controlling Paperwork Burdens on the Public. In accordance with those rules and the Paperwork Reduction Act of 1980 as amended (44 U.S.C. 3507), the Forest Service has received approval by the Office of Management and Budget to collect cave nomination information under clearance number 0596-0123 and confidential information under 0596-0122. The information provided for the cave nominations will be used to determine which caves will be listed as “significant” and the information in the requests to obtain confidential cave information will be used to decide whether to grant access to this information. Response to the call for cave nominations is voluntary. No action may be taken against a person for refusing to supply the information requested. Response to the information requirements for obtaining confidential cave information is required to obtain a benefit in accordance with section 5 of the Federal Cave Resources Protection Act of 1988 (16 U.S.C. 4304).

## PART 291—PALEONTOLOGICAL RESOURCES PRESERVATION

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AUTHORITY: 16 U.S.C. 470aaa through 470aaa-11.

SOURCE: 80 FR 21630, Apr. 17, 2015, unless otherwise noted.

### § 291.1 Purpose.

(a) The regulations in this part implement provisions of the Paleontological Resources Preservation Act, 16 U.S.C. 470aaa through 16 U.S.C. 470aaa-11 (hereinafter referred to as the Act), which provides for the preservation, management, and protection of paleontological resources on National Forest System lands and encourages the scientific, educational and where appropriate, the casual collection of these resources. Paleontological resources are nonrenewable, and are an accessible and irreplaceable part of America's natural heritage.

(b) The Secretary shall manage, protect, and preserve paleontological resources on National Forest System lands using scientific principles and expertise. These regulations provide for coordinated management of paleontological resources and encourage scientific and educational use by promoting public awareness, providing for collection under permit, setting curation standards, establishing civil and criminal penalties, clarifying that paleontological resources cannot be collected from National Forest System